

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

REGIONS BANK, AS TRUSTEE,)
)
Plaintiff,)
)
v.) **Case No. 2:18-CV-00716-KOB**
)
LAURICE M. DAVID,)
LAWRENCE DAVID,)
LAURA WELDHEIM, AND)
INTERNAL REVENUE SERVICE,)
)
Defendants.)

MEMORANDUM OPINION AND ORDER

This matter comes before the court on the parties' "Consent Motion for Order Vacating State Court Order and New Order Per the Parties' Agreement." (Doc. 36; Consent Mot., United States of America v. Regions Bank, No. 2:18-CV-735-KOB (N.D. Ala. Jan. 15, 2019), ECF No. 32)). In the consent motion, the parties moved this court to vacate an order the Circuit Court of Jefferson County issued before Defendants removed the case to this court. Ct.'s Order, Regions Bank v. Laurice, et al., No. 01-CV-2017-905169.00 (Cir. Ct. Jeff. Cnty. Ala. May, 9, 2018), Doc. 32. This court ordered the parties to show cause why it has authority to vacate the state court order pursuant to the terms of the parties' settlement. (Doc. 34; Ct.'s Order to Show Cause, United States of America v. Regions Bank, No. 2:18-CV-735-KOB (N.D. Ala. Jan. 7, 2019), ECF No. 29)). The parties timely responded, and the court has reviewed their response. (Doc. 35; Parties' Resp., United States of America v. Regions Bank, No. 2:18-CV-735-KOB (N.D. Ala. Jan. 11, 2019), ECF No. 30)). For the reasons stated below, the court GRANTS the parties'

consent motion for order vacating the state court order and issues a new Order pursuant to the terms of the parties' settlement.

As an initial matter, this court has the authority to vacate the state court's pre-removal order as if it were reexamining its own order. *Jackson v. Am. Sav. Mortg. Corp.*, 924 F.2d 195, 198 (11th Cir. 1991) ("After removal, state court proceedings are treated as those of the district court, and the district court naturally is able to reexamine its own proceedings.").

Federal Rule of Civil Procedure 60(b)(6) provides for relief from a final judgment or order for "any other reason that justifies relief." Rule 60(b)(6) operates as a "catch-all," but the Eleventh Circuit requires that motions under the rule "demonstrate that the circumstances are sufficiently extraordinary to warrant relief." *Galbert v. W. Carib. Airways*, 715 F.3d 1290, 1294 (11th Cir. 2013).

When parties reach a settlement that requires Rule 60(b)(6) relief, district courts apply a balancing test to determine if "exceptional circumstances" exist. *Hartford Cas. Ins. V. Crum & Forster Specialty Ins.*, 828 F.3d 1331, 1336 (11th Cir. 2016). Specifically, district courts should weigh "the benefits of settlement to the parties and to the judicial system (and thus to the public as well) against the harm to the public in the form of lost precedent." *Id.*

Here, this court concludes that vacating the state court order to allow for voluntary dismissal best serves the interests of the parties, the judicial system, and the public. Preserving the order holds little precedential value, as it concerns the interpretation of a bespoke trust agreement governed by state law. See *Heartland Catfish Co. v. Navigators Specialty Ins.*, Civil Action No. 15-368-CG-M, 2018 WL 1913549, at *2 (S.D. Ala. Mar. 6, 2018) ("There is only a 'slight' value in the public preserving a district court's ruling on questions of state contract law."). And the parties' settlement relies on this court vacating the order. *Id.* ("Where both

parties to the settlement desire vacatur because settlement would otherwise be impossible, the consideration weighs in favor of vacating the order.”).

So, pursuant to Rule 60(b)(6) and the parties’ consent motion, the court GRANTS the parties’ consent motion to vacate the state court order, (doc. 36; Consent Mot., United States of America v. Regions Bank, No. 2:18-CV-735-KOB (N.D. Ala. Jan. 15, 2019), ECF No. 32), and VACATES the Jefferson County Circuit Court order issued in this case before removal to this court, (Ct.’s Order, Regions Bank v. Laurice, et al., No. 01-CV-2017-905169.00 (Cir. Ct. Jeff. Cnty. Ala. May, 9, 2018), Doc. 32).

In view of the court’s granting the parties’ consent motion to vacate the state court order, the court FINDS AS MOOT “United States’ Motion to Void State Court Order and To Dismiss Regions Bank’s Complaint.” (Doc. 8). The court will ENTER JUDGMENT pursuant to the parties’ settlement agreement in a separate Order.

DONE and **ORDERED** this 30th day of January, 2019.



KARON OWEN BOWDRE
CHIEF UNITED STATES DISTRICT JUDGE